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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,239	08/31/2001	Peiguang Zhou	KCC-16,163	1306
7590 11/10/2005 Senniger, Powers, Leavitt & Roedel One Metropolitan Square, 16th Floor St. Louis, MO 63102			EXAMINER BOYD, JENNIFER A	
			ART UNIT 1771	PAPER NUMBER
DATE MAILED: 11/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/945,239

Applicant(s)

ZHOU ET AL.

Examiner

Jennifer A. Boyd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24 - 33 and 70 - 82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24 - 33 and 70 - 82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/26/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Request for Reconsideration

1. The Applicant's Remarks, filed August 18, 2005, have been entered and have been carefully considered. No claims are amended and claims 24 - 33 and 70 - 82 are pending. The invention as currently claimed is unpatentable for reasons herein below.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 24 - 33 and 70 - 82 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer (WO 01/15646) in view of Hall (US 3,370,106). The rejection is detailed in the previous Office Action. The rejection is maintained.

Response to Arguments

4. Applicant's arguments filed August 18, 2005 have been fully considered but they are not persuasive.

Applicant argues that in establishing obviousness the Office must show reference that teach all of the claimed limitations along with some motivation or suggestion, either in the references themselves or in knowledge generally available to one skilled in the art, to combine the references and arrive at the claimed subject matter. Applicant argues that references must suggest the desirability of the combination to create a case for obviousness. The Examiner

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submits that Hall does provide sufficient motivation to produce the composite of Tanzer with adhesive of Hall in order to create a composite with low-cost and high performance properties. This motivation is found specifically in the Hall reference in column 1, lines 20 – 25. The Examiner agrees that Hall discusses using the hot melt adhesive for bonding two materials such as corrugated paper and kraft paper facer in the Abstract. However, Hall also teaches that it is known to use hot melt adhesives for bonding wood, paper, plastics, *textiles* and other materials in column 1, lines 35 – 45. It should be noted that “disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments” *In re Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Applicant argues that it would not be clear for one skilled in the art to necessarily choose the low-cost adhesive of Hall rather than the myriad of other low-cost, high performance adhesives available in the art. Applicant argues that Hall does not suggest the use of the adhesive in a diaper. It should be noted that Applicant does not claim a diaper or even an absorbent article instead only a laminated structure. As discussed in the previous rejection, Tanzer teaches that the *layers* 46 and 48 can be secured by a water insensitive attachment means (Tanzer, page 6, lines 25 – 28). Tanzer further notes that the layers can be secured by a wide

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variety of conventional techniques such as adhesive bonding (Tanzer, page 12, lines 5 – 15).

Thus, Tanzer provides an express suggestion to look to the prior art to determine what adhesives are conventionally used in the art and find a suitable adhesive for the particular application. Hall teaches a hot-melt adhesive having Applicant's claimed characteristics wherein the adhesive has high performance properties and is low-cost (Hall, column 1, lines 20 – 25). Hall additionally notes that the adhesive can be used for bonding a wide variety of substrates including textiles (Hall, column 1, lines 35 – 45). Hall provides sufficient motivation to incorporate the disclosed hot-melt adhesive in the composition of Tanzer in order to have a composite having a low-cost and high performance adhesive. The Examiner submits that proper motivation has been provided.

Applicant notes that the Hall and Tanzer references were previously used in combination with a third reference Wang in a previous Office Action and all of the previously set forth rejection have been withdrawn. Although Examiner has previously used these references, the Examiner has not previously applied a rejection over Tanzer in view of Hall. Additionally, although claim 70 was previously indicated as allowable, the Examiner submits that the current rejections are proper and should be maintained.

Applicant argues that Wang teaches away from using the adhesive of Hall in the product of Tanzer. Although Wang does discuss problems with using a hot-melt adhesive based on atactic polypropylene, the Wang reference does not indicate that the specific adhesive of Hall would also have these problems and could not be suitable for use in a laminated composite or a diaper. Further, it should be noted that Wang is considered to be irrelevant because it is not relied upon the current rejection.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer Boyd
November 4, 2005


Ula C. Ruddock
Primary Examiner
Tech Center 1700